

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARK McGINNIS,)	8:07CV276
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
MICHAEL J. ASTRUE,)	
Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	

This matter is before the court on the plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Filing 21.) The plaintiff requests attorney fees in the total amount of \$2,465.25, which represents 15 hours of work by his attorney, at an average hourly rate of \$164.35.¹ The application also requests reimbursement of costs in the amount of \$350.00, for the filing fee. The Commissioner does not oppose the plaintiff's application, and, in fact, requests that he be ordered by the court to pay both amounts. *See* filing 25.

The court has determined that the plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and matter remanded for further proceedings; that the application for fees was filed in a timely fashion; and that the position of the Commissioner was not substantially justified. The plaintiff therefore is entitled to an award of reasonable attorney fees and taxable costs.

Accordingly,

¹ This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996.

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 21) is granted.

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$2,465.25, and taxable costs in the amount of \$350.00.

April 16, 2008

BY THE COURT:

s/ Richard G. Kopf
United States District Judge